MT LEGISLATIVE HISTORY

Chapter 330 1983

Bill H _____ S 294 Original bill & hist. ___C

H. Committee on Ag, Live, Irr.			S. Committee on Nat. Res.		
Hearing Date(s)	3-11	___C	Hearing Date(s)	2-9	___C
	3-16	___C		2-14	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	3-16	___C		2-14	___C
	Rpt 3-16			Rpt 2-14	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE BILL NO. 294

INTRODUCED BY HAZELBAKER,
THOFT, HAND, SEVERSON

IN THE SENATE

January 26, 1983	Introduced and referred to Committee on Natural Resources.
February 14, 1983	Committee recommend bill do pass. Report adopted.
February 15, 1983	Bill printed and placed on members' desks.
February 16, 1983	Second reading, do pass.
February 17, 1983	Correctly engrossed.
February 18, 1983	Third reading, passed. Ayes, 47; Noes, 0. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
March 17, 1983	Committee recommend bill be concurred in. Report adopted.
March 21, 1983	Second reading, concurred in.
March 22, 1983	Third reading, concurred in.

IN THE SENATE

March 23, 1983

Returned to Senate. Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 294

INTRODUCED BY Halligan Thoft Hanl
Severson

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTES GOVERNING THE MANNER IN WHICH TAXES AND ASSESSMENTS ARE MADE AGAINST IRRIGATION DISTRICT LANDS; REMOVING THE $5 MINIMUM FEE FOR LANDS NOT ABLE TO RECEIVE WATER; PROVIDING FOR ASSESSMENTS UNDER CONTRACTS WITH THE STATE; AND PROVIDING FOR ASSESSMENT OF CONSTRUCTION COSTS FOR GRAVITY SYSTEMS; AMENDING SECTIONS 85-7-2103 AND 85-7-2104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-7-2103, MCA, is amended to read:

"85-7-2103. All irrigable lands chargeable alike. (1) All irrigable lands in each irrigation district, except such lands that are included within the district because of the exchange or substitution of water under the provisions of 85-7-1912, shall pay at the same rate for all purposes for which the lands are charged, except as otherwise provided by law. There may be a an administrative charge of $5 to $25 against each separately owned tract of land regardless of its size, as provided in 85-7-2104. ~~However, a separately owned tract of land of 1 acre or less and unable to receive water may be charged not more than the $5 minimum.~~

(2) Whenever water used for the irrigation of any lands within an irrigation district is obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation shall be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in such manner as may be determined fair and equitable by the board of commissioners after considering the facts in each case. This apportionment shall be made by the board of commissioners and included each year in the assessment provided for by 85-7-2104.

~~(2)~~ The amount of the assessment for maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, shall be determined by the board of commissioners in such manner and upon such notice to the persons interested in the district as the board in its rules may provide.

(3) Whenever a contract has been made with the United States, the lands within the district, whether originally included or later annexed to the district, shall pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued thereunder and in compliance with any contracts made by the United States with the owners of the lands and in compliance with the contract between the districts and the United States.

(4) Whenever a contract has been made with the state

INTRODUCED BILL
SB 294

of Montana, the lands within the district, whether originally included or later annexed to the district, shall pay in accordance with state laws and public notices and rules issued thereunder and in compliance with any contract made by the state with the owners of lands and in compliance with the contract between the district and the state.

(5) Whenever the works necessary for the completed project are constructed progressively over a period of years and whenever a portion of the lands within the district are or can be irrigated 1 year or more before the completion of the entire project, those lands so irrigated or that can be so irrigated through the built portion of the project shall pay for the cost of operating that portion of the project serving them with irrigation water and also shall pay such portion of the interest charges as its irrigable area bears to the irrigable area of the entire project.

(6) Whenever lands have appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the district, the amounts payable shall be equitably apportioned.

(7) Whenever the owners of a portion of the lands within an irrigation district choose to install a gravity system to irrigate those lands, the cost of constructing the gravity system shall be apportioned among and levied upon the lands irrigated by the gravity system in a manner

determined to be equitable by the board. The levy shall be included each year in the assessment charged under 85-7-2104."

Section 2. Section 85-7-2104, MCA, is amended to read:

"85-7-2104. Annual tax levy -- apportionment when tracts divided. (1) On or before the second Monday in July each year, the board of commissioners of each irrigation district organized under parts 1 and 15 shall ascertain the total amount required to be raised in that year for the general administrative expenses of the district, including the cost of maintenance and repairs, and the total amount to be raised that year for interest on and principal of the outstanding bonded or other indebtedness of the district, including any indebtedness incurred under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in 85-7-1906. The board shall levy, against each 40-acre tract or fractional lot, as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than 40-acre tracts or in less than the platted lot, then against each such tract) of land in the district, that portion of the respective total amounts so to be raised which the total irrigable area of any such tract bears to the total irrigable area of the lands in the

district, so that each acre of irrigable land in the district shall be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise specifically provided. The board of commissioners may make a charge of $5 to $25 against each separately owned tract of land, regardless of its size. ~~However, a separately owned tract of land of 1 acre or less and unable to receive water may be charged not more than the $5 minimum.~~

(2) In the event that the ownership of any such 40-acre tract or other subdivision of land in the district shall be divided after a special tax or assessment against the same has been levied, each or either of the owners of such tract or subdivisions shall be entitled to have such special tax or assessment equitably apportioned to and against said divisions of such tract or subdivisions, so that each owner shall be enabled to pay such special tax or assessment against his portion of such tract or subdivision and have the same discharged from the lien thereof. In no event shall the charge against any separately owned tract of land be less than $5. ~~However, a separately owned tract of land of 1 acre or less and unable to receive water may be charged not more than the $5 minimum.~~"

-End-

48TH LEGISLATIVE SESSION

COMMITTEE ON SENATE NATURAL RESOURCES

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 51	1-03-83	Moved to Agriculture Comm.							
SB 67	1-06-83	1-14-83	1-24-83			1-24-83			
SB 101	1-11-83	1-24-83	1-24-83			1-24-83			
SB 161	1-15-83	1-26-83	1-26-83			1-26-83			
SB 164	1-15-83	1-28-83	1-28-83		1-28-83				
SB 270	1-24-83	2-04-83	2-04-83			2-04-83			
SB 275	1-24-83	2-02-83	2-14-83			2-14-83			
SB 276	1-24-83	1-31-83	1-31-83	1-31-83					
SB 277	1-24-83	1-31-83	1-31-83	1-31-83					
SB 278	1-24-83	1-31-83	1-31-83	1-31-83					
SB 279	1-24-83	1-31-83	1-31-83	1-31-83					
SB 280	1-24-83	1-31-83	1-31-83			1-31-83			
SB 283	1-25-83	2-07-83	2-14-83			2-14-83			
SB 291	1-26-83	2-07-83	2-14-83	2-14-83					
SB 294	1-26-83	2-09-83	2-14-83	2-14-83					
SB 340	2-02-83	2-09-83	2-14-83	2-14-83					

Use a separate sheet for Senate, House Bills and Resolutions

48TH LEGISLATIVE SESSION

MINUTES OF
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

February 9, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order by Senator Harold L. Dover, Chairman, on Wednesday, February 9, 1983 at 12:30 p.m. in Room 405, State Capitol, Helena, MT.

ROLL CALL: Roll was called with a quorum of members being present, Senator Manning excused.

SENATE BILL 294: Chairman Dover opened the hearing on SB 294, calling on Senator Hazelbaker, sponsor, of District 41. Senator Hazelbaker stated this bill deals with assessments against irrigation district lands. This bill is a compatible bill with other irrigation bills the committee has already heard. It would remove the $5 limit for minimum fee on lands not receiving water, would provide for the district to contract with the state, and would permit a group of landowners to install a gravity system, without cost to the remainder of the district if the system didn't benefit others. There are not many gravity systems in operation, however there is no power payment for sprinklers, which saves thousands of dollars. He stated he would ask Mr. Ellis and Mr. Kennedy to speak on the bill as well.

PROPONENTS: Larry Ellis, Montana Water Development Association and Helena Valley Irrigation District spoke, stating that the subdivision areas do not allow for conveying water from an area that doesn't require the water. This bill would clarify that and allow contracting with the state as well.

Dick Kennedy, East Bench Irrigation District, stated in one case of subdivision, there hadn't been any provision for easement from the canal to the lands where small parcels were sold, and later persons who purchased property wanted easements. This bill would help in that situation. He stated the $5 assessment charge is not sufficient for contacting each water account 5-6 times per year as needed, and they need to be able to increase this fee.

There were no other proponents, and no opponents.

Senator Van Valkenburg inquired when the $5 minimum charge was put into law? Mr. Kennedy stated it had been four years ago.

Senator Mohar stated it seems that the subdivisions in the Helena valley are attempting to solve their problems through legislation, but that it may set precedence for other irrigation districts. Mr. Ellis stated other districts in Missoula

SB 294 (cont.)
have also had similar problems, that the districts are willing to supply water if the method to be assessed can be worked out. Hearing was then closed on SB 294.

SENATE BILL 340: Chairman Dover opened hearing on Senate Bill 340 and called on Senator Galt, sponsor. Senator Galt stated this bill is to amend requirements for eligibility for examination and registration as a land surveyor. The bill would amend requirements for registered land surveyors to allow a person who desires self education to be allowed to take the examination, that this applies in other professions and should apply to land surveyors also.

PROPONENTS: Chairman Dover inquired if there were proponents. Ken Kuzara, Roundup, spoke in support of SB 340, stating it would allow experience to substitute for education toward the examination for land surveyor. Other states, numbering 28, now allow that type of substitution. A land surveyor could obtain a license in another state and transfer to this state under those qualifications, under reciprocity. Montana should allow this substitution to its own residents as well.

OPPONENTS: Morris Guay, member of Board of Professional Engineers and Land Surveyors, stated he would like to present history of the present requirement. The major change in the law was made in 1975, prior to that a person could become qualified as a land surveyor if they had six years of land surveying experience under a registered land surveyor and they passed an 8 hour examination. In 1975 the law was revised, to include two years education of 90 credit hours plus six years experience. In 1979 due to a lawsuit, the legislative audit committee reviewed and compared to others, and found that Montana is a leader in these combined requirements to include education. At the present time three schools in Montana offer the education requirements and these courses also can be challenged by paying the required fees. No. '1'

Bob Custer, MARLS, stated he supports the education requirement, and at the time the law was changed, had even been asked to support a four year degree requirement. No. '2'

Charlie Wright, MARLS, stated he is a member of Montana Association of Land Surveyors, and is chairman of the continuing education program, and supports the education requirement. No.'3'

Mike Foley, stated he obtained his registration through the process that is being proposed by substituting education, and has been playing catch-up since. He spends much of his time on studying law, and considers it a necessary part of the registration. No. '4'

(SB 283 cont.)
Senator Halligan then moved that SB 283 Do Pass as amended. Senator Keating inquired as to what provision for solar credit was already in the law. Senator Mohar stated it had been $125, but that was sunseted, this would carry over or replace that allowance. Senator Story pointed out that even with a reduction of the allowance, this would still be $300,000 over the biennium, and this would be a large impact on budgets. Senator Mohar stated it does impact the general fund, but it is trying to give the industry a start. Committee members discussed the budget crunch, also noting that people are trying to cut back as well and this would help people with heating costs. After discussion that this bill would cause conservation and preservation of natural resources, it was suggested that a sunset provision be given to the bill.

Senator Story then moved that SB 283 Do Pass As amended, with a Sunset Provision that in four years this allowance end and that it revert back to $125 credit allowance, and that a letter of intent also accompany the bill. Vote was called, roll was taken, vote was 7 'aye', 4 'no', 1 absent, motion carried.

ACTION ON SENATE BILL 291: Senator Eck moved that SB 291 Do Pass. There was a short discussion, Senator Shaw inquired as to a 30 day limit after the EIS, Senator Eck pointed out that applies with a different department doing the EIS. Vote was taken, a majority present voted 'aye', Senator Story and Shaw voted 'no', motion carried.

ACTION ON SENATE BILL 294: Senator Keating noted this is an irrigation bill. Senator Keating then moved Do Pass, SB 294, vote was called, all present voted 'aye', motion carried.

ACTION ON SENATE BILL 340: Examination of surveyors. Senator Keating moved Do Pass SB 340. Senator Mohar stated it seemed there was special interests protecting their business in this matter. Senator Etchart stated he believed self education was good, many times persons learn more. Senator Keating pointed out the bill only allows taking the exam, they can't be registered if they don't pass. Senator Mohar stated that the persons now get two years more education, he didn't think that all bad. Vote was called, a majority present voted 'aye', Senators Halligan and Mohar voted no, motion carried that SB 340 Do Pass.

ACTION ON SENATE BILL 350: Senator Tveit moved that SB 350 Do Pass. Senator Shaw stated there should be ID placed on the caps in the holes. Senator Mohar stated everyone had said the crews were doing a bad job plugging holes, this bill would help the situation. Vote was then called, a majority present voted 'aye', Senator Shaw voted 'no', motion carried, SB 350 Do Pass.

STANDING COMMITTEE REPORT

February 14 19 83

MR. PRESIDENT:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 294

Respectfully report as follows: That SENATE Bill No. 294

DO PASS

SEN. HAROLD L. DOVER, Chairman.

STATE PUB. CO.
Helena, Mont.

STATUS SHEET

AGRICULTURE COMMITTEE

48th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 276	Amending Sec. 85-7-1710, MCA, to provide that the Board of Commissioners of an irrigation district may by resolution establish that district votes are to be cast by 1-acre.	2/7/83	Aklestad	3/9/83	BE CONCURRED IN	3/14/83
SB 277	Amending Sec. 85-7-1902, MCA, to provide that a Board of Commissioners of an irrigation dist. may refuse delivery of water to any person who owes money to the district.	2/7	Conover	3/7	BE CONCURRED IN	3/14
SB 278	Amending Sec. 85-7-1904, MCA, to increase from $125,000 to $150,000 the amount of purchase or rental which an irrigation dist. bd. may bind a dist. w/o landowners consent	2/7	Conover	3/7	BE CONCURRED IN	3/16
SB 279	Amending Sec. 85-5-107, MCA, to revise the reporting requirements for and costs assessable by a water commissioner	2/7	Ochsner	3/9	BE CONCURRED IN	3/16
SB 280	To amend Sec. 85-7-1956, MCA, to allow an election to ratify authority for an irrigation district to contract with the United States	2/9	Fuller	3/9	AS AMENDED BE CONCURRED IN	3/21
SB 294	To revise the statutes governing manner of taxation and assessment against irrigation district lands; removing $5 minimum fee.	3/1	Hazelbaker	3/11	BE CONCURRED IN	3/16

orm CS-32
-81

MINUTES OF THE MEETING OF THE HOUSE AGRICULTURE, LIVESTOCK AND IRRIGATION COMMITTEE, MARCH 11, 1983

The meeting was called to order by Vice Chairman Holliday on Friday, March 11, 1983 at 12:30pm in Room 129, State Captiol. All members were present with the exception of Representatives Jacobsen, Bengston, Hanson, Howe, Roush and Underdal, who were excused.

HEARINGS

SENATE BILL 294. SEN. FRANK HAZELBAKER, District 41, Beaverhead County, testified as sponsor of the bill, which would make three substantative changes in assessment of irrigation districts and remove the $5 fee, for lands unable to receive water. He said the bill would provide assessments for construction of gravity systems and set an administrative fee of up to $25 for small tracts of land. He told the Committee the bill would allow districts to enter into contracts with the State of Montana as well as the federal government, adding gravity systems would save users thousands of dollars in energy costs.

PROPONENTS

MR. DICK KENNEDY, East Bench Irrigation District, Dillon, testified in support of the bill and said Section 85-7-2103, MCA, is an important code as it relates to assessment of irrigation district and that it removes the exception for tracts of land of one acre or less. He explained administrative costs were not functional on a cost-per-acre basis, were amended in the past and later amended to $5, adding subdivided tracts would not be removed from assessment. Mr. Kennedy told the Committee an individual may not be able to receive water when an easement is not provided during subdivision of the land that such subdividing activity does not reduce costs which must be paid to the water district as part of a federal obligation. He said Section 3 of the bill provides coverage for the State in contracting with water districts for improvements and paragraph 7 covers rules and regulations of the districts, which permit gravity irrigation to blocks of land as special improvement districts within a given district.

MR. ROBERT A. ELLIS, Helena Valley Irrigation District, expressed his support of the bill and told the Committee removal of the small acreages cap would eliminate the need for the annual search for new land owners when at assessment time.

MR. KEN KELLY, Montanan Water Development Association, stated his support of prior statements made in support of the bill.

OPPONENTS

There were no opponents of the bill.

QUESTIONS

REP. KOEHNKE asked for an explanation of gravity flow systems. Mr. Kennedy replied in his area, 93,000 acres of land are sprinkler irrigated via gravity flow at a direct savings to the farmers. He said the irrigation district only provided water to the pump, adding the system is financed through a water company formed by the farmers, themselves, which charges an assessment for the special improvement district within the district.

REP. SPAETH asked Mr. Ellis if the districts wanted to charge more than $5. Mr. Ellis replied the intent of the bill was to cover administrative costs, adding some districts need more funds than others.

REP. SPAETH asked if landowners would get much for their $25 assessment if such a cap were set. Mr. Ellis explained drains must be maintained in addition to other duties, adding land owners would definitely receive full benefit of the assessment.

REP. BLISS asked how a vote was arrived at in irrigation districts for gravity flow assessment. Mr. Kennedy advised the members who receive the benefit would pay for the assessment.

REP. JENSEN asked if the assessment would be collected by the county treasurer. Mr. Kennedy replied it would be.

IN CLOSING, Sen. Hazelbaker told the Committee he would assign a representative to carry the bill if it were concurred in.

SENATE BILL 415. SEN. MAX CONOVER, District 36, Yellowstone County, testified as sponsor of the bill, which cleans up language in the seed law for grasses planted in reclamation areas. He said page 2, line 2 of the bill includes seeds for revegetation of disturbed sites since some grasses brought from other states are not adapted to the area and provided committee members with a letter from Loren Wiseman, Plant and Soil Science Department, Montana State University (exhibit).

REP. SCHULTZ moved the bill Be Concurred In as Amended. Rep. Ryan seconded the motion which, was unanimously approved.

SENATE BILL 278. REP. LYBECK moved the bill Be Concurred In. Rep. Ernst seconded the motion. All members voted aye except Rep. Koehnke, who voted no. Rep. Lybeck was asked to carry the bill.

SENATE BILL 279. REP. SPAETH moved the bill Be Concurred In. Rep. Roush seconded the motion, which was unanimously approved.

SENATE BILL 294. REP. ERNST moved the bill Be Concurred In. Rep. Lybeck seconded the motion which was unanimously approved.

SENATE BILL 415. REP. SPAETH moved the bill Be Concurred In. Rep. Saunders seconded the motion.

MR. JOHN MACMASTER, Legislative Council Attorney, advised the Committee page 6, line 7, prior to "package", "any" should be inserted since the bill is presently too vague as to who is to label a package, parcel or lot.

REP. SCHULTZ asked if the language would cover repackaging. Mr. MacMaster replied it would.

REP. SPAETH said the langauge was awkwardly worded before and the original amendment was to make certain a person offering seed for sale would be responsible.

CHAIRMAN JACOBSEN asked if the bill would eliminate bartering. Rep. Spaeth suggested insertion of language to address trade.

REP. HOLLIDAY moved, following "Any" on page 6, line 7 of the bill, "person offering for sale a", be inserted. Rep. Spaeth seconded the motion which was unanimously approved by the Committee.

REP. KOEHNKE told the Committee lines 7-11 on page 5 address bartering.

CHAIRMAN JACOBSEN told the Committee House Bill 401 would be considered in executive action on March 18, and House Joint Resolution's 34 and 35, on March 21, 1983.

STANDING COMMITTEE REPORT

MARCH 16 19 83

MR. SPEAKER:

We, your committee on AGRICULTURE

having had under consideration SENATE Bill No. 294

THIRD reading copy (BLUE color)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTES GOBERNING THE MANNER IN WHICH TAXES AND ASSESSMENTS ARE MADE AGAINST IRRIGATION DISTRICT LANDS; REMOVING THE $5 MINIMUM FEE FOR LANDS NOT ABLE TO RECEIVE WATER; PROVIDING FOR ASSESSMENTS UNDER CONTRACTS WITH THE STATE; AND PROVIDING FOR ASSESSMENT OF CONSTRUCTIONCCOSTS FOR GRAVITY SYSTEMS; AMENDING SECTIONS 85-7-2103 AND 85-7-2104, MCA."

Respectfully report as follows: That SENATE Bill No. 294

BE CONCURRED IN

XXXXXX

REP. GLENN JACOBSEN

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY